

On December 2, 1991, an award was entered in this case in favor of the claimant awarding benefits based upon a fifteen percent (15%) permanent partial general bodily disability. There were no additional stipulations in the trial of the Application on Review and Modification.

ISSUES

The issue to be determined is whether the claimant's present disability and need for medical treatment is a result of the 1984 injury for which an award of compensation was previously entered.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire evidentiary record and having considered the arguments of counsel, the Appeals Board finds, as did the Special Administrative Law Judge below, that claimant has failed to meet her burden showing that the claimant's current disability and apparent need for medical treatment resulted from the 1984 accident.

In 1984, claimant injured her low back in the course of her employment for respondent North American Van Lines. The regular hearing on her claim for workers compensation benefits was held June 12, 1991, and an award was entered December 2, 1991. Claimant now seeks additional medical treatment by Application for Review and Modification of that award.

In support of the Application, claimant testified and offered deposition testimony of Dr. David E. Thurston. Dr. Thurston followed claimant from shortly after the 1984 accident through her present treatment. Dr. Thurston testified that the CT scan done in December 1990, approximately five (5) years after her accident, was still negative for disc herniation. A CT scan done in 1992 does show disc herniation. Dr. Thurston concluded, however, that there was no way he could specifically say that the injury in 1984 caused the disc herniation to occur in 1992. Claimant testified only that she could not recall any specific injury or incident since her 1984 accident which might be considered responsible for the increase of symptoms in 1992.

From the evidence presented, the Appeals Board cannot say that claimant has proved that it is more probably true than not that her present problems are a result of the 1984 accident.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that claimant's application for Review and Modification of the Award entered December 2, 1991, is hereby denied.

Pursuant to K.S.A. 44-536g, claimant's attorney fee in the sum of \$2,550 is ordered paid by respondent.

Fees necessary to defray the expenses of administration of the Workers Compensation Act are hereby assessed against the respondent to be paid direct as follows:

William F. Morrissey Special Administrative Law Judge	\$150.00
Braksick Reporting Service Transcript of Preliminary Hearing	\$210.00
Curtis, Schloetzer, Hedberg, Foster & Assoc.	

Transcript of Review and Modification	\$183.45
Correll Reporting Service	
Deposition of David Thurston, M.D.	\$348.50

IT IS SO ORDERED.

Dated this ____ day of June, 1994.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Frank D. Taff, 3601 SW 29th St., Topeka, KS 66614
James C. Wright, 534 Kansas Ave., Suite 1400, Topeka, KS 66603
William F. Morrissey, Special Administrative Law Judge
George Gomez, Director